



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) citation	<u>13 VAC 5 - 31</u>
Regulation title	Virginia Amusement Device Regulations (VADR)
Action title	Periodic review and update of VADR to reference newest available codes and standards.
Date this document prepared	March 24, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The regulatory action is to update the regulation to incorporate by reference the newest available nationally recognized codes and standards. The standards for amusement devices are controlled by the American Society for Testing and Materials (ASTM).

In conjunction with incorporating the newest available standards into the regulation, the entire regulation will be subject to review and change. This is due to the fact that the ASTM standards constitute the majority of the regulation and the various parts of the regulation must be coordinated with the use of those standards, which necessitates scrutiny of the entire regulation.

This action is exempt from Article 2 of the Administrative Process Act under § 2.2-4406(13) of the Code of Virginia.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The statutory authority to update the regulation is contained in § 36-98.3 of the Code of Virginia. The promulgating agency is the Board of Housing and Community Development. As the regulation is a companion to the Virginia Uniform Statewide Building Code, state law does require the Board to keep the regulation up to date.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The newest ASTM standards become available every three years, so when they become available, the Board initiates a regulatory action to update the VADR to include them.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

The proposed regulation will update all references to the ASTM standards from the existing editions to the new editions. In addition, any changes to the ASTM standards which were made in the current VADR have been reviewed to determine whether the newest ASTM standards have consistent provisions. Those changes to the standards which were made in the current VADR and are no longer necessary due to there being consistent provisions in the newest ASTM standards are deleted in the proposed regulation. The proposed regulation will also contain minor changes to the standards or to the associated administrative provisions of the regulation which have been vetted through the client groups affected by the VADR and have met no opposition.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

As the use of the latest ASTM standards to encompass the bulk of the regulation is based on statutory requirements, the agency believes this action to be the least burdensome or intrusive method of meeting the essential purpose of the action.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so at the public hearing or by mail, email or fax to Steve Calhoun, 501 N. 2nd Street, Richmond, VA 23219-1321, (804) 371-7018, fax number: (804) 371-7092, email address: taso@dhcd.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

In addition, the agency is seeking information on 1) the continued need for the regulation; 2) the complexity of the regulation; 3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and 4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

A public hearing will be held and notice of the hearing may be found on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The agency is using the participatory approach in developing the proposed regulation to the extent that the nature of each particular provision of the regulation permits. In general, the participatory approach has been utilized in developing consensus changes to be made in the proposed regulation in addition to updating to the newer editions of the I-Codes.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The Department is not aware of any potential impact of this action on the institution of the family or on family stability.